APPEAL NO. 032077
FILED SEPTEMBER 23, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on July 8, 2003. The hearing officer determined that the respondent's (claimant) compensable (left collar bone/clavicle) injury extends to include the cervical area.

The appellant (carrier) appealed on a sufficiency of the evidence basis and argued that the claimant's compensable injury and current neck complaints were to the left side while the MRI findings are to the right side. The carrier also requests that we remand the case for the hearing officer to make specific findings on the injury to the cervical area. The file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant, a pizza delivery person, sustained a compensable injury when the car he was driving was hit by a golf cart in a parking lot on _____. The claimant went to an emergency room where he was advised that he had a left clavicle fracture which the carrier has accepted. Some medical reports refer to radiating pain into the neck, or cervical complaints, other reports indicate the claimant denies neck pain. An MRI performed on February 11, 2003, indicates right-sided disc herniations at C5-6 and C6-7. The doctors have no explanation why the claimant's complaints are to the left side but the hernations are to the right side. The treating doctor at one-point comments that he "cannot exclude the possibility of a new injury." A new or different injury is denied by the claimant.

Regarding the carrier's request that the Appeals Panel remand the case back to the hearing officer "to specifically address the type of damage or harm to the cervical area" we note that the issue as stated, and agreed upon, was whether the compensable injury extends to and includes an injury to the cervical area. The hearing officer answered that issue in the affirmative, which is all that was required. We decline to require further specificity when the agreed-upon issue did not require such specificity.

The Appeals Panel has held that the question of the extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the

great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Elaine M. Chaney
Appeals Judge